

REMARKS

Continued prosecution and reconsideration of the claimed subject matter in the above-identified patent application is respectfully requested.

All of the previous claims have been cancelled and replaced by new claims 70 through 94. Claims 70 through 93 are present in the case and are before the Examiner.

I. The Amendments

The prior claims have been cancelled and further amended along the lines helpfully suggested by the Examiner to maintain the claimed subject matter within the bounds of the restriction. Claims 70-72 are generally supported by prior claim 32 and the suggestions made by the Examiner in the Final Action mailed September 23, 2005 near the bottom of page 8 and top of page 9. Claim 73 is directed to a composition containing a nucleic acid molecule of claim 70. Claims 74-91 are based on previous claims 35-68. Claims 92-93 are based on the recited suggestions of pages 8 and 9 of the Final Action. It is thus seen that no new matter has been presented through the requested amendments.

II. The Rejections

A. Rejections under 35 U.S.C. § 112,  
2<sup>nd</sup> Paragraph

The Advisory Action indicated that claims 32 and 34 included "any 10 to 20 nucleotides of SEQ ID NO:13 flanked on the 3' and/or 5' end by nucleotides of any number and identity." Although it cannot be agreed that

that interpretation of the prior claim language was correct, the claims have been amended to more clearly articulate the invention and obviate that interpretation. It is also believed that the noted basis for rejection of prior claim 61 has also been overcome. The Examiner is thanked for her further explanation. In view of the present amendments discussion above, it is respectfully requested that the prior ground for rejection of the claims under 35 U.S.C. § 112, second paragraph, be withdrawn or not asserted as to the present claims.

C. Rejection under 35 U.S.C. § 102(e)

Prior claims 37-38 stood rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Mirzabekov US Patent No. 6,090,549 that is said to teach chips containing all possible 8-mer nucleic acids. The Action and Advisory Action noted that the claims did not recite that the primers were isolated and purified, so the disclosure in the patent was said to anticipate the claims. It is believed this rejection is moot in view of the recitations of claim 75.

In view of the above comments and present amendment, it is respectfully requested that these grounds for rejection of the pending claims under 35 U.S.C. § 102(b) be withdrawn or not applied to these claims.

III. SUMMARY

All of the prior claims have been cancelled and replaced by new claims 70-93. Each basis for rejection noted in the Advisory has been dealt with and overcome or otherwise made moot.

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It is therefore believed that this application is in condition for allowance of all of the pending claims. An early notice to that effect is earnestly solicited.

A Petition for a three month extension of time and its fee are enclosed. No further fee or petition is believed to be necessary. However, should any further fee or petition be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

The Examiner is requested to phone the undersigned should any questions arise that can be dealt with over the phone to expedite this prosecution.

Respectfully submitted,

By   
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Enclosures  
Petition and Fee

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CERTIFICATE OF EXPRESS MAILING

I hereby certify that this Reply, RCE and its fee, Petition for Extension of time and its fee are being deposited with the United States Postal Service as Express Mail Label No. EV555558035US postage prepaid in an envelope addressed to: Mail Stop: RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 22, 2006.

By Carl Stanley